

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BIG RUN STUDIOS INC., et al.,  
Plaintiffs,  
v.  
AVIAGAMES INC.,  
Defendant.

Case No. [21-cv-04656-AMO](#) (SVK)

**ORDER ON JOINT DISCOVERY  
SUBMISSION**

Re: Dkt. No. 139

Before the Court is the Parties' Joint Discovery Submission dated June 6, 2023 ("Submission") regarding four outstanding issues. The Court has reviewed the submission, the relevant law and the extensive litigation history in this action and determines that certain of these issues will benefit from further evaluation by the Parties in accordance with the Court's orders below and, if issues remain, from oral argument.

**Issue A: The "More You Play"** screens and related documents. In the Submission Defendant represents that it will produce additional screens that it can locate following a reasonable search. **Defendant is to complete its search and production no later than June 16, 2023.** Defendant further represents that its production of related documents pursuant to RFP 122 is complete, and Plaintiff acknowledges it was not in a position to evaluate that claim by the deadline for filing the Submission. Accordingly, the Parties are to meet and confer IN-PERSON<sup>1</sup> before submitting an update to the Court as required below. In the meet and confer process, Defendant is to identify responsive documents by bates numbers and Plaintiffs are to articulate any deficiency in the production with reasonable specificity.

**Issue B: Disputed FAQ.** Similar to Issue A, Defendant states that as of June 6 its

<sup>1</sup> The Parties may conduct preliminary meet and confer efforts by video, however, any remaining dispute to be included in the update must follow an in-person meet and confer.

1 production of documents responsive to RFP 121 was complete, and Plaintiffs appear to not yet  
 2 have had sufficient time to evaluate that production. Accordingly, the Parties are to meet and  
 3 confer IN-PERSON before submitting an update to the Court as required below. In the meet and  
 4 confer process, Defendant is to identify responsive documents by bates numbers and Plaintiffs are  
 5 to articulate any deficiency in the production with reasonable specificity.

6 **Issue C: Documents relating to Skillz Commercials.** Plaintiffs' inquiry into potentially  
 7 additional infringing commercials in light of the information contained on the referenced  
 8 spreadsheet is relevant and proportional to the needs of the case at this juncture in the litigation.  
 9 Although Defendant posits that it has produced what responsive materials it has, its representation  
 10 follows complaints about the inquiry that are generally not well taken. **Accordingly, no later**  
 11 **than June 16, 2023, Defendant is to search for and produce all of the commercials in**  
 12 **Defendant's custody or control from the subject spreadsheet which reference Skillz.** For  
 13 each such commercial, Defendant is to identify the platforms on which the commercial ran and the  
 14 dates of publication. The Parties are to meet and confer in-person regarding any remaining issues  
 15 before submitting an update to the Court.

16 **Issue D: Defendant's Redactions.** The Parties dispute whether redactions of foreign  
 17 employees' performance reviews is appropriate. Plaintiffs cite the limited allowance for  
 18 redactions under the Protective Order; Defendant relies upon its interpretation of Chinese law and  
 19 the irrelevance of the disputed information to the dispute at hand. There is some merit in each  
 20 argument. The Protective Order does control the proper scope of redactions in this case. Further,  
 21 the Parties' production obligations in this case are subject to the laws and orders controlling in and  
 22 issued by this Court, not Chinese law. However, the disputed information – employment  
 23 performance reviews of persons not implicated in this action – has no bearing on the case.  
 24 Accordingly, Plaintiffs' request is not proportional to the needs of the litigation and is therefore  
 25 **DENIED.**

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**Status Update.** After the Parties have complied with the Court's orders above, including an in-person meet and confer session, should there be remaining issues as to dispute A, B, or C, the Parties are to provide a status report to the Court not to exceed five pages, double-spaced **by June 23, 2023**. The Court will hold an in-person discovery hearing on **June 27, 2023 at 10 a.m.**

**SO ORDERED.**

Dated: June 13, 2023

  
SUSAN VAN KEULEN  
United States Magistrate Judge